



December 31, 2018

Honorable Toni Atkins
Senate President Pro Tempore
State Capitol, Room 205
Sacramento, CA 95814

Honorable Anthony Rendon
Speaker of the Assembly
State Capitol, Room 219
Sacramento, CA 95814

Re: Bureau for Private Postsecondary Education – Written Update

President Pro Tempore Atkins and Speaker Rendon:

This correspondence fulfills the requirements of California Education Code section 94948 for the director of the Department of Consumer Affairs (DCA) to provide the Legislature with written updates every six months regarding the Bureau for Private Postsecondary Education (Bureau).

Through the leadership of Bureau Chief Dr. Michael Marion, the Bureau has strengthened its relationships with programs both inside and outside DCA. The Bureau's Office of Student Assistance and Relief (OSAR) continues to serve the students of California and is actively reaching out to increase its visibility. Additionally, the Bureau is working with DCA to proactively reduce its enforcement cases. Below are updates on the Bureau's activity from July 2018 through December 2018.

Emerging Matters

Education Corporation of America School Closures

The Education Corporation of America (ECA), the parent corporation of Brightwood College and the Golf Institute of America, chose to cease operations at all their 11 California campuses after losing their accreditation from the Accrediting Council for Independent Colleges and Schools (ACICS). ECA did not provide the Bureau the required 30-day notice prior to closure pursuant to Education Code section 94926. ECA lost its accreditation on December 4, 2018 and provided the Bureau notice of the closures the following day. Immediately after ECA's notice of closure, the Bureau and OSAR worked expediently to provide information to both affected students and elected officials. Within one week, OSAR held school closure outreach events for all 11 campuses and affected students. To date, the Bureau has received 82 claims from former ECA students for reimbursement through the Student Tuition Recovery Fund (STRF).

In the weeks following the closures, the Bureau has worked with ECA's attorney and a few interested academic institutions to potentially provide a teach-out¹ for the affected students at the two largest campuses in San Diego and Van Nuys. ACICS has extended ECA's accreditation through December 31, 2018 in order to allow time for the teach-out agreements to be approved by the Bureau. The Bureau will provide the Legislature with updates as soon as additional information becomes available.

Complaint Processing

DCA is collaborating with the Bureau to address the complaint processing issue in both the short-term and long-term. This collaboration will assist the Bureau in immediately tackling portions of the outstanding enforcement cases and implement systems that will provide consistent metrics for staff. The goal of this collaboration is to create clear benchmarks and show significant progress as the Bureau comes up for sunset review in 2020.

The Bureau's caseload increased from 960 complaints in July 2017 to 1,186 complaints as of May 2018, and subsequently decreased to 1,075 complaints as of November 2018.

The Bureau has taken steps to address the ongoing issue of its complaint resolution process, including conducting monthly case reviews by enforcement supervisors, filling nine staff vacancies and hiring two retired annuitants in the last year. The Bureau has also created an Unapproved Activity Unit, which will free up an estimated 150 complaint cases from enforcement analysts, allowing them to focus on student complaints from approved schools.

The Bureau recognizes the hiring, onboarding, and training of staff will take some time to complete. The Bureau has found that the learning curve for new staff is high, especially given the complexity of both the laws and regulations affecting authorized institutions, and the nature of the evidence encountered in complaint cases. In August, the Attorney General's office provided training to Bureau enforcement and licensing staff on investigative techniques, report writing, and courtroom testimony. DCA's SOLID unit also provided a 'training for trainers' seminar for the Bureau in early November 2018. Chief Marion remains committed to addressing the complaint cases and believes that once staff are in place and fully trained, the Bureau will be able to more efficiently process complaints.

DCA will have a concrete plan in the first quarter of 2019 to reduce the number of open enforcement cases. Going forward, the Bureau has emphasized the importance of

¹ A teach-out is when another academic institution offers affected students to complete a similar or identical program of study for which a student may not incur additional costs outside the normal cost of completing the original program.

communication and accurate recordkeeping as integral to developing a long-lasting and comprehensive solution to address its complaint cases.

Enforcement

When approved institutions are out of compliance with the law, the Bureau has the authority to issue a notice to comply, to cite and fine, or to seek more serious penalties via accusation or emergency decision authority. Accusations and emergency decisions can lead to an institution being placed on probation or having its approval to operate suspended or revoked. The cases listed were provided in the last update; below are updates on these cases.

Silicon Valley University

Silicon Valley University is an institution authorized to operate by the Bureau in 1999, providing courses of instruction and degrees in technology-related fields. In December 2017, the Bureau filed an accusation against Silicon Valley University alleging it maintained inaccurate School Performance Fact Sheets and STRF assessment forms, made inaccurate disclosures about STRF eligibility to students, used recruiters not employed by the university, maintained insufficient information in student files, allowed excess transfer credit, misrepresented its enrollment, and committed several other violations. The Bureau ordered the university to cease instruction in April 2018, effectively closing the school. Disciplinary hearings are scheduled for early February 2019.

South Baylo University

South Baylo University is an institution first issued a provisional approval to operate in 1986, approval to offer acupuncture instruction in 1987, and full approval to operate in 1995. South Baylo was also approved to offer a Bachelor of Science degree in acupuncture in 1998.

In January 2018, the Bureau filed an accusation alleging South Baylo had willfully removed documents from student files in advance of the Bureau's investigation and had failed to disclose to students its Bachelor of Science in holistic science was unaccredited.

The Bureau further alleged South Baylo had admitted students who did not possess sufficient admission qualifications, failed to execute enrollment agreements with students, kept incomplete student files, failed to retain student records, and had maintained student transcripts which contained added classes, transfer credits, or inconsistent grades.

An Administrative Law Judge heard the case, took evidence, and heard testimony from a Bureau investigator and several witnesses, and issued a proposed decision to the Bureau on June 12, 2018. The proposed decision concluded the school had failed to maintain enrollment agreements, had given transfer credit in violation of its

own policies, failed to maintain student records, and failed to notify students in writing that one of its programs was unaccredited. Broadly, the decision highlighted the school's negligence rather than any overt violations. Accordingly, and in consideration of other aggravating and mitigating factors, it was recommended the school's approval to operate be placed on probation for a period of eight years. The school was also ordered to pay \$34,000 in enforcement costs. DCA adopted the proposed decision and order on September 25, 2018. This case is an example of how complex cases can extend case aging. The investigation lasted more than two years to obtain relevant documentation and review of student files and records.

The Bureau hopes to bring more cases like these to light through the accusation process to more aggressively represent the interests of California consumers and to appropriately discipline schools engaging in harmful practices.

State Partnerships

Chief Marion continues to strengthen the Bureau's relationships with other state entities with which there is shared jurisdiction. The Bureau and the Board of Barbering and Cosmetology have continued targeted partnered site inspections of schools and meet every month to discuss ongoing issues. The Bureau reports this partnership has led to four emergency decisions against schools in the past year, resulting in one school closure, and one pending school closure. A fifth accusation is anticipated.

OSAR is working on outreach events with the Employment Development Department and the California Department of Veterans Affairs (CalVet). DCA believes partnerships like these represent a new way of addressing complex multijurisdictional issues and applauds Chief Marion's continued dedication.

Accrediting Council for Independent Colleges and Schools

ACICS is a national accreditor with several institutions based in California that enroll thousands of students. In September 2016, the U.S. Department of Education (U.S. DOE) decided to no longer recognize ACICS as an accreditor. Between September 2016 and April 2018, the U.S. Department of Education (U.S. DOE) and ACICS were involved in litigation regarding U.S. DOE's recognition of ACICS before a United States District Court for the District of Columbia. In April 2018, the U.S. DOE retroactively restored ACICS' recognition pending a final decision by Secretary of Education Betsy DeVos.

While awaiting a final decision, the Bureau recognized ACICS accreditation on an interim basis in its review of institutions seeking approval to operate. ACICS-accredited institutions with pending or approved "Approval to Operate a Non-Accredited Institution" based on the U.S. DOE's prior de-recognition were allowed to operate as accredited institutions, and to seek to use ACICS accreditation as the basis for offering degree programs.

On November 21, 2018, the U.S. DOE decided to recognize ACICS as an accreditor. Currently, the Bureau is determining the impact this decision will have, and how to appropriately notify authorized institutions. The Bureau has a page on its website (https://www.bppe.ca.gov/schools/acics_information.shtml) that allows authorized schools to stay up to date on BPPE's position on ACICS, and will be updating the site to reflect recent changes.

Ongoing Updates

Office of Student Assistance and Relief

OSAR continues to review and process STRF claim applications. OSAR is actively working with a total of approximately 550 students and is focusing on maximizing the refund to which each student is legally entitled. OSAR also engages in proactive outreach activities. For example, OSAR contacted students of the Art Institute in California and obtained their contact information prior to their schools closing and held two campus workshops in November 2018 to help identify potentially affected students and inform them of OSAR's resources. Additional information about OSAR's ongoing activities can be found at OSAR website in its recently published Annual Report to the Legislature.

Business Modernization Effort

The Bureau continues to make headway in its effort to make much needed updates to its information technology system. As reported in the previous update, the Bureau completed its business mapping process and was in the process of finalizing documentation to serve as the basis for determining its information technology system needs. During 2018, the Bureau and staff from DCA's Organizational Change Management unit dedicated more than 5,000 staff hours to evaluating the Bureau's processes and achieving this key milestone. The finalized documentation is expected to be submitted to the California Department of Technology in January 2019. The Bureau indicates its new information technology system will be in place in 2021.

Licensing

The Bureau has continued to reduce the number of applications (initial and renewal) that are either under review or pending (see chart). The Bureau's dedication to meeting processing timelines represents a continuation of the decrease in open applications dating back to 2013.

July 2013	December 2015	June 2018	November 2018
1,174	579	195	142

The Bureau's goal is to ensure that all complete applications are assigned to an analyst within 30 days for a thorough evaluation. Out of the current total workload of 142 applications, fifteen are pending assignment.

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I appreciate the opportunity to share this information. Please do not hesitate to contact me at (916) 574-8200 or Dean.Grafilo@dca.ca.gov if you have additional questions.

Thank you for your time.

Sincerely,

A handwritten signature in black ink that reads "Dean Grafilo". The signature is written in a cursive, flowing style.

Dean R. Grafilo
Director, Department of Consumer Affairs

cc: Senator Steve Glazer, Chair, Senate Committee on Business, Professions and Economic Development
Senator Connie Leyva, Chair, Senate Committee on Education
Assembly Member Evan Low, Chair, Assembly Committee on Business and Professions
Assembly Member Jose Medina, Chair, Assembly Committee on Higher Education
Alexis Podesta, Secretary, Business, Consumer Services, and Housing Agency